

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

205

CRM-M-21240-2020
Date of decision: 08.10.2020

RAJESH KUMAR

....Petitioner

Versus

STATE OF HARYANA AND ANOTHER

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Kuldeep Attri, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana
for respondent No. 1-State.

Mr. Sandeep Kumar Yadav, Advocate
for the complainant.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No. 0219 dated 29.06.2020 registered under Sections 323, 324 and 506 read with Section 34 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Kanina, District Mahendergarh to which Section 325 of the IPC was added later on.

Vide order dated 31.07.2020 Co-ordinate Bench of this Court, while issuing notice of motion granted interim anticipatory bail to the petitioner with direction to join the investigation. Relevant part

of order dated 31.07.2020 reads as under :-

“..... Learned counsel for the petitioner inter alia contends that it was the complainant who was the trespasser on to the fields of the petitioner and was the aggressor; the petitioner received injuries at the hands of respondent No.2; FIR in question is a counter blast to FIR No. 217 dated 26.06.2020 lodged by the petitioner against the complainant; the FIR in question has been lodged after an unexplained delay of 04 days and that even after the lodging of the FIR in question the complainant, alongwith others, attacked the petitioner resulting in multiple serious injuries to him with regard to which incident FIR No.254 dated 20.07.2020 was got registered by him at Police Station Kanina, District Rohtak.

Notice of motion.

Ms. Tanisha Peshawaria, DAG, Haryana accepts notice on behalf of the respondent-State and prays for time to argue the matter.

Respondent No.2 be served through ordinary process.

Adjourned to 21.09.2020.

In the meanwhile subject to the petitioner's joining investigation as and when called by the investigating agency as also abiding by the other conditions provided under Section 438 (2) Cr.P.C, in the event of his arrest in FIR No.0219 dated 29.06.2020 registered under Sections 323, 324, 325, 34 and 506 IPC, 1860 at Police Station Kanina, District Mahendergarh he shall be released on ad interim anticipatory bail to the satisfaction of the Arresting Officer...”

The petition has been opposed by learned State Counsel in terms of reply filed by way of affidavit of Vijay Deshwal, HPS Deputy Superintendent of Police, Kanina, District Mahendergarh filed in connected case No. CRM-M-20653-2020.

I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for the complainant and have gone through the relevant record.

Learned counsel for the petitioner has reiterated factual submissions made earlier and submitted that the petitioner has joined the investigation and his custodial interrogation is not required.

Learned State counsel and learned Counsel for the complainant have vehemently opposed the petition and submitted that in view of the gravity of accusation, the petitioner does not deserve grant of anticipatory bail and the petition may be dismissed.

However, learned State Counsel on instructions from SI Sanjay Kumar has acknowledged that in compliance with order dated 31.07.2020 passed by Co-ordinate Bench of this Court, the petitioner has joined the investigation and also submitted that his custodial interrogation is not required for any purpose.

In view of the facts and circumstances of the case, nature of accusation and evidence against the petitioner and also the fact that custodial interrogation of the petitioner is not required in the case but without expressing any opinion on the merits of the case, I am of the considered view that the petitioner deserve grant of anticipatory bail.

In view of the above, the petition is allowed and order dated 31.07.2020 granting interim bail to the petitioner is made absolute. However, the petitioner shall join the investigation again if and as and when called upon to do so and shall abide by the conditions enumerated in Section 438 (2) of the Cr.P.C., failing which the protection of anticipatory bail order shall not be available to him.

08.10.2020
kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No